

Serial N . 09/596,101

**REMARKS**

The Final Office Action of April 9, 2002 and the Advisory Action of June 17, 2003 have been received and reviewed. This amendment is submitted in conjunction with a Request for Continued Examination. Claims 1 through 19 are pending in the application. Claims 4-10, 12, 14, 15 and 18-19 have been withdrawn from consideration. Claims 1-3, 11, 13, 16 and 17 stand rejected. Claims 1, 2, 11 and 13 have been amended as set forth herein. All amendments are made without prejudice or disclaimer. Reconsideration is respectfully requested.

This amendment is being submitted in conjunction with a Request for Continued Examination and a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. 1.137(b). It should be noted that applicants previously filed a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. 1.137(b) on October 31, 2002, but it appears that the petition was erroneously dismissed as being moot on May 22, 2003 since it was stated that "the application is not abandoned." (Paper No. 21, mailed May 22, 2003). However, it appears that the above-referenced application is abandoned since the case was not allowed within six months from the mailing date of the Final Office Action of April 9, 2002. Accordingly, expedited consideration of the attached Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. 1.137(b) is respectfully requested.

**Rejections under 35 U.S.C. § 102**1-3 and 13

Claims 1-3 and 13 were rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by Bilej et al. (Bilej et al., Identification of TNF-Like Activity in Earthworms, European Cytokine Network, March-April 1994, vol. 5 no. 2, page 99). Applicants respectfully traverse the rejections as hereinafter set forth.

Amended claim 1 is directed to an isolated peptide comprising at least 9 contiguous amino acids of SEQ ID NO: 1 and amended claim 2 is directed to an isolated peptide comprising the amino acid sequence of SEQ ID NO: 3 or a functional fragment thereof having trypanolytic activity. Claims 1 and 2 are not anticipated since Bilej et al. does not disclose the isolated peptides of claim 1 or claim 2. Rather, Bilej et al. discloses a "semi-pure active fraction" of

Serial No. 09/596,101

coelomic fluid used to prepare monoclonal antibodies. (See, Bilej et al.). Accordingly, reconsideration and withdrawal of the anticipation rejections of claims 1, 2 and 13 are requested.

Claims 11 and 16-17

Claims 11 and 16-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bilej et al. (Bilej et al., Identification of a cytolytic protein in the coelomic fluid of *Eisenia foetida* earthworms, Immunology Letters, Vol. 45 (1995), p. 128). Applicants respectfully traverse the rejections as hereinafter set forth.

Independent claim 11 is not anticipated since Bilej et al. does not disclose all of the elements of claim 11. As amended, claim 11 is directed to "a pharmaceutical composition comprising an isolated peptide selected from the group of peptides consisting of a peptide comprising at least 9 contiguous amino acids of SEQ ID NO: 1, a peptide comprising the amino acid sequence of SEQ ID NO: 3, a fragment of either thereof having trypanolytic activity, and an epitope of either thereof." The Bilej et al. reference does not disclose a pharmaceutical composition including an isolated peptide. Rather, Bilej et al. discloses a "semi-purified fraction contain[ing] approximately 7 proteins. This fraction was used for intra-pad immunization." (Bilej et al., page 126). Thus, reconsideration and withdrawal of the anticipation rejections of claim 11 and claims 16 and 17 depending therefrom are requested.

Serial No. 09/596,101

**CONCLUSION**

In view of the amendments and remarks presented herein, applicants respectfully submit that the claims define patentable subject matter. If questions should remain after consideration of the foregoing, the Examiner is kindly requested to contact applicants' attorney at the address or telephone number given herein.

The Commissioner is authorized to charge any additional fees required but not submitted with any document or request requiring fee payment under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account 20-1469 during pendency of this application.

Respectfully submitted,



Andrew F. Nilles  
Registration No. 47,825  
Attorney for Applicants  
TRASKBRITT, PC  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: August 21, 2003

AFN

Document in ProLaw